IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

MFA.No. 988 of 2002(Y)

OPMV.1018/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR
.....

APPELLANT: PETITIONER

KUNJU MOHAMMED, S/O.ALI, MUHAPILLY VEEDU, KUTTERAPARAMB, MANJAPETTY, MARAMPILLY P.O., PERUMBAVOOR, ERNAKULAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: RESPONDENTS
----

1. YUSUF, S/O.AHAMED, VATHALY VEEDU, MANGAPPETTY, MARAMPILLY P.O., PERUMBAVOOR, ERNAKULAM DISTRICT.

2. THE NATIONAL INSURANCE COMPANY, PERUMBAVOOR.

BY ADV. SRI.M.A.GEORGE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 12.11.200, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

==========

M.F.A. NO.988 OF 2002

==========

Dated this the 12th day of November, 2007

J U D G M E N T

Petitioner in O.P(MV) No.1018 of 1996 on the file of the Motor Accidents Claims Tribunal, Perumbavoor, is the appellant. Appeal is filed challenging the quantum of compensation awarded to the petitioner.

2. Petitioner met with a motor vehicle accident on 13.3.1996. He filed the O.P. claiming a total compensation of Rs.50,000/-. It was alleged that the accident occurred due to the negligence of the first respondent, owner-cum-driver of the vehicle. First respondent did not appear and contest the case. Insurer alone contested the case. Insurer contended that the accident occurred not due to the negligence of the first respondent. It was also contented that quantum of compensation claimed was excessive.

3. The Tribunal found that the accident occurred due to the negligence of the first respondent, driver of the vehicle. The Tribunal awarded Rs.32,771/- as compensation. The

Insurer was directed to pay the amount awarded. Challenging the inadequacy of the quantum of compensation awarded, the petitioner himself had filed this appeal.

4. Learned counsel appearing for the appellant has argued that the accident occurred after the amendment of the Motor Vehicles Act. It is also argued that the appellant was aged 48 at the time of the accident and even in the case of a new born child Rs.15,000/- is to be taken as the annual income. It is further argued that the appellant is a Coolie and the monthly income fixed by the Tribunal is very low. It is argued that though the appellant has produced a disability certificate showing 15% disability, the Tribunal arbitrarily reduced the disability to 7% and fixed the compensation.

5. After hearing both sides and considering all aspects of the matter, I am of the view that the Tribunal ought to have awarded Rs.10,000/- more as compensation on the ground of disability. But I do not find any reason to interfere with the compensation awarded on any other count.

In the result, appeal is allowed in part. An award is passed in favour of the appellant allowing him to recover an

additional compensation of Rs.10,000/- with 6% interest from the date of petition till date of deposit. The Insurer is directed to deposit that amount also. On deposit, appellant can withdraw the entire amount.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

==========

M.F.A. NO. 988 OF 2002

==========

J U D G M E N T

12TH NOVEMBER, 2007